

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

NOV 06 2014

Clerk, U.S. District Court
District Of Montana
Missoula

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ANGELLA LEANN PARKER,

Defendant.

Cause No. CR 11-27-BU-DWM

ORDER DENYING MOTION FOR
SENTENCE REDUCTION
(Amendment 782)

On November 3, 2014, Defendant Angella Parker filed a motion to reduce the sentence under 18 U.S.C. § 3582(c)(2), based on U.S.S.G. App. C Amendment 782 (eff. Nov. 1, 2014). Parker is a federal prisoner proceeding pro se.

At sentencing, Parker's guideline range was initially calculated at 121-151 months. After she was given the benefit of the safety valve, 18 U.S.C. § 3553(f); U.S.S.G. § 5C1.2, her total offense level was 30. With a criminal history category of I, Parker's advisory guideline range was 97-121 months. From that range, the Court varied downward by 25 months. On March 9, 2012, Parker was sentenced to serve 72 months in prison, to be followed by a five-year term of supervised release. Minutes (Doc. 76); Judgment (Doc. 78) at 2-3; Sentencing Tr. (Doc. 127) at 28:6-21, 43:18-44:9.

Parker now seeks a further reduction in the below-guidelines sentence she

received.

A defendant's sentence may be reduced when the Sentencing Commission lowers a sentencing range, but only "if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." 18 U.S.C. § 3582(c)(2). The "applicable policy statement" here is found in U.S.S.G. § 1B1.10. One provision under that guideline requires that a defendant's eligibility for the reduction be assessed on the basis of "the guideline range that corresponds to the offense level and criminal history category determined pursuant to 1B1.1(a)," U.S.S.G. § 1B1.10 Application Note 1(A), including the safety valve, U.S.S.G. § 5C1.2, *see* U.S.S.G. § 1B1.1(a)(8). The second relevant provision of the applicable policy statement prohibits the Court from reducing the sentence below "the minimum of the amended guideline range." U.S.S.G. § 1B1.10(b)(2)(A).¹

The guideline range corresponding to Parker's offense level and criminal history category as determined under U.S.S.G. § 1B1.1(a) was 97-121 months. If Parker received a two-level reduction in her offense level of 30, the amended offense level would be 28. With a criminal history category of I, the amended guideline range would be 78-97 months. But Parker is serving a sentence of 72 months.

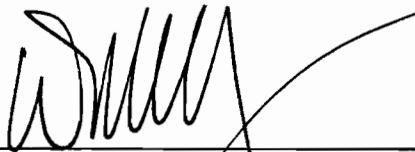
¹ There is an exception for defendants as to whom the United States filed a motion for reduction based on substantial assistance. U.S.S.G. § 1B1.10(b)(2)(B). No such motion was filed as to Parker.

Parker's existing sentence is already below the bottom of the guideline range that would apply if she received the two-level reduction under Amendment 782. Relief under the circumstances, therefore, is not authorized under 18 U.S.C. § 3582(c)(2). *See* U.S.S.G. § 1B1.10(a)(2) & (B). Her motion will be denied.

The Court will not entertain any motion for reconsideration or any further motion under Amendment 782. If Parker believes she should receive a reduction under the Amendment, her only recourse is to appeal this decision.

Accordingly, IT IS HEREBY ORDERED that Parker's motion for a sentence reduction under 18 U.S.C. § 3582(c)(2) and Amendment 782 (Doc. 140) is DENIED.

DATED this 6th day of November, 2014.



Donald W. Molloy
United States District Court